

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Donald P. Speakman et al.

Plaintiffs

v.

**CIVIL ACTION
NO. 04-40077-FDS**

Allmerica Financial Life Insurance & Annuity Co. et al.

Defendant

SCHEDULING ORDER

SAYLOR, J.

This Scheduling Order is intended to provide a reasonable timetable for discovery and motion practice in order to help ensure a fair and just resolution of this matter without undue expense or delay.

Timetable for Discovery and Motion Practice

Pursuant to Rule 16(b) of the Federal Rules of Civil Procedure and Local Rule 16.1(F), it is hereby ORDERED that:

1. **Initial Disclosures.** Initial disclosures required by Fed. R. Civ. P. 26(a)(1) must be completed by July 1, 2005.
2. **Amendments to Pleadings.** Except for good cause shown, no motions seeking leave to add new parties or to amend the pleadings to assert new claims or defenses may be filed after January 31, 2006.
3. **Fact Discovery - Interim Deadlines.**
 - a. All requests for production of documents and interrogatories must be served by February 28, 2006.
 - b. All requests for admission must be served by February 28, 2006.
 - c. All depositions, other than expert depositions, must be completed by April 30, 2006.

4. **Fact Discovery - Final Deadline.** All discovery, other than expert discovery, must be completed by April 30, 2006.
5. **Status Conference.** A status conference will be held on May 10, 2006 at 3:00 p.m.
6. **Expert Discovery.**
 - a. Plaintiff(s)' trial experts must be designated, and the information contemplated by Fed. R. Civ. P. 26(a)(2)(B) must be disclosed, by May 14, 2006.
 - b. Plaintiff(s)' trial experts must be deposed by June 30, 2006.
 - c. Defendant(s)' trial experts must be designated, and the information contemplated by Fed. R. Civ. P. 26(a)(2)(B) must be disclosed, by July 15, 2006.
 - d. Defendant(s)' trial experts must be deposed by August 31, 2006.
7. **Class Certification**
 - a. Any motion for class certification must be filed by July 22, 2005. Defendants must respond within 75 days after service of the plaintiff's motion. The plaintiff may then file a reply memorandum, not to exceed fifteen double-spaced pages, within 30 days of the defendants' filing.
 - b. If any party intends to identify experts and submit expert reports in connection with class certification, such experts shall be identified and their reports shall be provided on or before the deadlines set forth for the parties to file their respective briefs. The parties shall make such experts available for depositions within 11 days of their disclosure, and will work cooperatively to ensure that they have a full and fair opportunity to address each other's class certification arguments that are based on expert witness testimony.
 - c. Oral arguments for class certification will be November 14, 2005.
8. **Dispositive Motions.**
 - a. Dispositive motions, such as motions for summary judgment or partial summary judgment and motions for judgment on the pleadings, must be filed by October 15, 2006.

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- b. Oppositions to dispositive motions must be filed within 45 days after service of the motion. Replies to the opposition must be filed within 30 days after service of the opposition and shall not exceed fifteen pages, double-spaced.
9. **Pretrial Conference.** A pretrial conference will be held on January 9, 2007 at 3:00 p.m.

Discovery Limitations

The parties may serve up to 35 interrogatories, 35 requests for admission, and two sets of requests for production of documents. Each party may take 14 non-expert depositions.

Procedural Provisions

1. **Extension of Deadlines.**
 - a. **Fact Discovery - Interim Deadlines.** The parties may extend any interim deadline for fact discovery by mutual written agreement filed with the court.
 - b. **Fact Discovery - Final Deadline; Expert Discovery.** The parties may extend the final deadline for fact discovery or the deadlines for expert discovery for a combined total of up to 30 days by mutual written agreement filed with the court.
 - c. **Dispositive Motions and Pretrial Conference.** The parties may not extend the deadline for filing dispositive motions or the date of the final pretrial conference without leave of court. No extension of discovery deadlines shall modify or affect deadlines for filing dispositive motions or the date of the pretrial conference unless the court expressly orders otherwise.
 - d. **Procedure for Seeking Extensions from Court.** Motions to extend or modify deadlines will be granted only for good cause shown. Good cause may be shown where discovery has been delayed or a deadline otherwise has been affected by the time taken by the court to consider a motion. All motions to extend shall contain a brief statement of the reasons for the request; a summary of the discovery, if any, that remains to be taken; and a specific date when the requesting party expects to complete the additional discovery, join other parties, amend the pleadings, or file a motion.
2. **Motions to Compel or Prevent Discovery.** Except for good cause shown, motions to compel discovery, motions for protective orders, motions to quash,

motions to strike discovery responses, and similar motions must be filed no later than the close of fact discovery or the close of expert discovery, whichever deadline is relevant. If additional discovery is compelled by the court after the relevant deadline has passed, the court may enter such additional orders relating to discovery as may be appropriate.

3. **Reply Memoranda.** Parties need not seek leave of court to file a reply memorandum in response to an opposition to any motion, provided that such a reply memorandum does not exceed twelve pages, double-spaced, and is filed within seven days (excluding intermediate Saturdays, Sundays, and legal holidays) after service of the opposition memorandum. Parties may otherwise file reply or surreply memoranda only with leave of court. When such leave is sought, the moving party may file a proposed reply or surreply memorandum with the motion for leave.
4. **Additional Conferences.** Upon request of counsel, or at the court's own initiative, additional case-management or status conferences may be scheduled. Parties may request telephonic conferences where appropriate to avoid undue inconvenience or expense.
5. **Early Resolution of Issues.** The court recognizes that, in some cases, resolution of one or more preliminary issues may remove a significant impediment to settlement or otherwise expedite resolution of the case. Counsel are encouraged to identify any such issues and to make appropriate motions at an early stage in the litigation.
6. **Pretrial Conference.** Lead trial counsel are required to attend any pretrial conference.

By the Court,

June 29, 2005
Date

/s/ Martin Castles
Deputy Clerk